

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALBERTO HERNANDEZ, JR.,

Defendant.

CR 19–32–M–DLC

ORDER

United States Magistrate Judge Kathleen L. DeSoto entered Findings and Recommendation in this matter on October 3, 2019. Neither party objected and therefore they are not entitled to *de novo* review of the record. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge DeSoto recommended this Court accept Alberto Hernandez, Jr.’s guilty plea after Hernandez appeared before her pursuant to Federal Rule of Criminal Procedure 11, and entered a plea of guilty to one count of conspiracy to

distribute methamphetamine in violation of 21 U.S.C. § 846, as set forth in the Indictment.

I find no clear error in Judge DeSoto's Findings and Recommendation (Doc. 23), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that Alberto Hernandez, Jr.'s motion to change plea (Doc. 15) is GRANTED and Alberto Hernandez, Jr. is adjudged guilty as charged in the Indictment.

DATED this 24th day of October, 2019.



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Dana L. Christensen, Chief District Judge  
United States District Court